



CHESAPEAKE BAY FOUNDATION

Statement of Roy A. Hoagland
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Before the Subcommittee on Water Resources
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Chairman Duncan and members of the subcommittee, I am Roy Hoagland, vice president for Environmental Protection and Restoration at the Chesapeake Bay Foundation. I appreciate your invitation to come here today to comment on H.R. 4126, the Chesapeake Bay Restoration Enhancement Act of 2005, and on the needs of the Chesapeake Bay generally.

Next year, the nation will celebrate the 400th Anniversary of the founding of the Jamestown colony by the Virginia Company – the first successful European settlement in what became the original 13 American states. This anniversary also celebrates the first written detailed inventory of the Chesapeake Bay and its resources. The extensive journals kept by Captain John Smith during his explorations of the Bay and its tributary rivers provide us with the picture of an ecological system with abundant living resources, from oysters reefs so large they were navigation hazards to forests so dense you sunk several feet into the leaf mulch. Today the Bay is severely diminished from what it once was, with only a fraction of the quantity and diversity of life that it once supported. Intense pressures on the Bay continue unabated, with a hundred thousand people moving into the watershed every year, bringing more roads, more sewage, more urban storm water runoff—and more pollution. On the other side of the ledger, continue to lose acres and acres of forest land and farmland, both of which when well managed, contribute less nitrogen,

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phosphorous, and sediment pollution acre for acre than urban sprawl.

All this is why our latest annual State of the Bay report card gave the health of the Bay a D+. Despite all the efforts put into restoring the Bay, we are now just barely holding the line against the relentless pressures of more and more pollution. Every summer, we see a very large and growing “dead zone” in the Bay and its tributaries where there is not enough dissolved oxygen in the water to support healthy aquatic life. The dead zone is there for the same reason there is an even larger annual dead zone in the Gulf of Mexico: more nitrogen, phosphorus and sediment is entering our streams, rivers and the Bay than the system can ecologically sustain.

The Chesapeake Bay Foundation doesn’t particularly relish being the constant bearer of bad news. So, let me focus for a minute on some good news. We have seen areas where oyster restoration is hugely successful. We have seen a great deal of positive change in public appreciation of the economic, recreational, biological and spiritual value of a clean and healthy Chesapeake Bay; no one disputes that that Bay is a national treasure. We have identified, scientifically, not only the problems facing the Bay, but have also defined the solutions. Recently, we have seen unprecedented investments at the state level by Virginia, Maryland, and Pennsylvania to reduce nitrogen pollution.

And, since 1983, we have seen the cooperative, multi-jurisdictional Chesapeake Bay Program play a critical role in increasing our understanding of the Chesapeake Bay and what we need to do, despite all the pressures, to restore it to health. It has also played a critical role in coordinating and helping direct various restoration efforts of the federal government, the state governments, local governments and non-governmental organizations like the Foundation. My knowledge of the Chesapeake Bay Program comes not only from my work with the Chesapeake Bay Foundation, but also from my years as a member of the Citizens Advisory Committee for the Program, two years as its Chairman.

The Chesapeake Bay Foundation does support the reauthorization of the Chesapeake Bay Program, and this legislation. The Foundation is not without its suggestions for changes, but in general we urge you perfect HR 4126 and move it through the legislative process before the end of this Congress.

With regard to specific provisions of HR 4126, we support the continuation of a \$40 million authorization for the core program and the state implementation grants, as well as a separate \$10 million authorization for the successful small watershed grants program. We also appreciate the recognition of the Tributary Strategies as roadmaps to the Bay's restoration. The planning, budgeting, and reporting provisions suggested by the bill, including cross-cutting budgets and the "tributary health report card," are worthwhile additions to existing law, as are the establishment of measurable goals and increased assistance for local governments. We are particularly supportive of provisions in the bill that would treat the Tributary Strategy load allocations as the functional equivalents of TMDLs for permitting purposes between now and May, 2010.

One provision of the bill does cause concern, however: the proposed dramatic lowering of federal agencies' responsibility to the restoration of the Bay. The current law reads:

[T]he head of each Federal agency that owns or occupies real property in the Chesapeake Bay watershed shall ensure that the property, and actions taken by the agency with respect to the property, comply with the Chesapeake Bay Agreement, the Federal Agencies Chesapeake Ecosystem Unified Plan, and any subsequent agreements and plans.

The bill before you proposes to replace that language with a much weaker obligation by the federal government, stating

Federal agencies acting in the Chesapeake Bay watershed should plan and execute, to the maximum extent practicable, such activities to support the achievement of Chesapeake Bay Agreement goals.

Exchanging a strong proactive obligation for federal agency compliance with the multi-jurisdictional commitments and goals of the Chesapeake Bay agreements with mild hortatory language is simply going in the wrong direction. We need the federal

government to step forward on Bay restoration, not backward. Many federal agencies own or occupy property in the Chesapeake Bay watershed – the Department of Defense alone has more than 50 installations and controls more than 400,000 acres. Management practices at these installations, as well as at the dozens of properties maintained by many other federal agencies, can have an enormously positive—or negative—effect on the Bay and the rivers that crisscross the Bay’s 64,000 square mile watershed. It is simply unthinkable that with the restoration needs as great as they are, those decisions should now become optional. Thus, the Foundation urges the subcommittee to remove the proposed changes to section (f) of Section 117 of the Federal Water Pollution Control Act as contained in this bill.

Mr. Chairman, I now want to briefly discuss three elements which I believe are missing in H.R. 4126 and that I believe could significantly strengthen the legislation if added.

The first is a coordinated implementation plan. The General Accountability Office recommended that five changes key be made in the management of the Chesapeake Bay Program. Among them was that the Program “develop an overall, coordinated implementation strategy that unifies the program’s various planning documents.” While the various state-developed Tributary Strategies provide a good roadmap for restoration, they would constitute a much better roadmap if the Program integrated them into a truly comprehensive implementation plan which identified key responsibilities and goals that would thereby assure our reaching the commitments we have made in the Chesapeake Bay agreements. The federal role in implementation of the Tributary Strategies is essential and must become part of federal agency budget decisions as well as congressional authorization and appropriations actions.

The second and third missing elements are additional authorizations that better respond to the magnitude of the challenges facing us in restoring the Bay. Without minimizing the work of the Chesapeake Bay Program, there simply is not enough being done by the federal government to protect and restore the Chesapeake Bay. I understand that there is a statement for the hearing record making a similar point from former Virginia Governor

Gerald Baliles, who chaired the Blue Ribbon Finance Panel on the Chesapeake Bay that called for a \$12 billion dollar federal investment in the Bay. The substantial increase needed was also acknowledged in the GAO report where it noted that “billions ... are almost certainly needed” to restore this national natural resource.

The Foundation is not suggesting that the subcommittee authorize billions of additional dollars in this bill. We are suggesting two specific ideas for you to consider, however. The first is that you separately authorize the Chesapeake Bay Program’s state implementation grants at \$20 million, reducing the current \$40 million authorization by a like amount. These grants are fundamentally different from the coordination, research, and communication elements that are the core function of the Program. They are the funds which go directly to the state partners. The Foundation urges you to consider this independent authorization language with the inclusion of conditions that use of the funds be restricted to programmatic activities that have a measurable impact on the improvement of the resource—and not for support of staff or other operational costs. While not a great deal of money is at stake, these federal dollars can be most effectively used for actual on-the-ground restoration actions; the states should be responsible for covering any operating or management costs.

The second idea for your consideration is new funds - the creation a new, separately authorized \$15 million Chesapeake Bay targeted watershed program (in addition to the two authorizations suggested by the legislation). The Chesapeake Bay is currently receiving a share of EPA’s national targeted watershed program, but only as a result of an appropriations earmark. As the nation’s largest estuary, and one about to be celebrated for its link to the founding of the nation, the Chesapeake Bay should in fact be statutorily identified as a priority for the nation and a special target of its restoration efforts.

The Foundation would, of course, be happy to work with you as appropriate on crafting legislative language for these three recommendations.

Mr. Chairman, some years ago, Congress officially “found” that the Chesapeake Bay was a national treasure as well as a resource of worldwide significance. The Chesapeake Bay Program has played a valuable scientific and coordinating role in the efforts to restore this national and international treasure. The Chesapeake Bay Foundation is grateful to Congressman Gilchrest and the other cosponsors for introducing H.R. 4126. We recognize and compliment the Congressman for the positive changes he has suggested in this legislation and elsewhere, and for his unwavering commitment to restoring the Chesapeake. However, we respectfully urge you to take an even more aggressive stance toward the restoration of the Bay by incorporating the changes we have suggested.

Nearly 400 years ago, Captain John Smith wrote of the Chesapeake Bay that “heaven and earth never agreed better to frame a place for man’s habitation.” We have not treated that extraordinary gift of heaven and earth with the full stewardship it deserves. The Chesapeake Bay Foundation urges the subcommittee to take the necessary steps to perfect and pass this legislation so as to move the Bay Program, the federal government, and all the partners in the restoration of this national treasure towards greater and more effective stewardship. Thank you for your time and inviting our participation in this hearing.